

1 available at our offices, come and look at them within, you
2 know, at your convenience over the next 30 days. Some of
3 them they said, We don't have the x-rays. The hospital has
4 them. We will get them back from the hospital. We have
5 correspondence out to the hospital. This was a heavily
6 litigated order. There were several hearings on this. Mr.
7 Esserman and Mr. Ramsey addressed this, and I think it's a
8 point of process. It's improper for Mr. Bernick to raise the
9 issue now at a quote - it's not even on the agenda. It's
10 just something he brought up out of thin air with no notice
11 to anybody, no attempt to file papers. It's completely
12 contrary to the Court's earlier ruling, and therefore, I
13 suggest it's highly improper. You should just deny the
14 request out of hand, and I'll turn the floor over to Ms.
15 Ramsey and Mr. Esserman.

16 THE COURT: Okay. What is the issue about getting
17 the certification. Is it some impossibility for some reason,
18 Ms. Ramsey?

19 MS. RAMSEY: Yes, Your Honor. There are various
20 reasons for the impossibility to get a certification. In
21 some instances what the law firms have in their possession
22 are copies, and what the law firms have said is, We're unable
23 to certify this. We have no reason to believe that it's not
24 a true and correct original. We believe in fact that it is a
25 true and correct original, but we can't certify that it's

1 exactly like the original because we don't have the original
2 here so that we can make that side-by-side comparison. In
3 some instances, some of the firms have said, We don't have
4 the capability, the special education that it would need to
5 make that certification, however, they've made the same kinds
6 of statements. We have no reason to believe it's not, and we
7 in fact believe that it is.

8 THE COURT: And that's not acceptable to the debtor?

9 MR. BERNICK: As Your Honor said, under almost
10 identical circumstances before the order was entered, was,
11 because I raised exactly this issue, I said, Look, folks,
12 this is really wasting my time. I'm sorry but I really have
13 other things to do, as we have today. The copies of the
14 things that are to be transmitted, the copies, unless the
15 copies for some reason or another are not certified as
16 accurate, you're not even going to get into this issue about
17 the originals if you get the copies, so you're really wasting
18 a lot of time. If somebody has a legitimate reason why an
19 original can't be provided in lieu of a copy, they're going
20 to give a certification. They're going to give you a
21 certification, and if you have some challenge to it, then
22 file a motion and we'll deal with it. You know, this process
23 is supposed to be the exception -

24 THE COURT: Okay.

25 MR. BERNICK: - not the rule.

1 THE COURT: Yes. Fine, so file a motion. Mr.
2 Bernick, really, I mean this process is getting out of hand.
3 All of you are getting out of hand with it. If you've got a
4 legitimate motion raise it. If you get an assertion from
5 counsel that they don't have an original, and therefore, they
6 can't certify something to be a copy of an original because
7 they don't have an original, and you're not willing to accept
8 that this is an accurate copy of the copy they have, then go
9 look at the copy that's in the law firm.

10 MR. BERNICK: I'm sorry, that's not what - Your
11 Honor, respectfully, and the only reason we're doing this now
12 is the same pressure that we had before is that we don't - we
13 have a situation where a representation was made to the Court
14 in service of getting this order reading out a certain way
15 and now it turns around and the net effect of where we are is
16 that we're not getting what it is that we're supposed to be
17 getting.

18 THE COURT: You're not getting it because they don't
19 the originals.

20 MR. BERNICK: No -

21 THE COURT: If you're not willing to accept a
22 certification that this is a true and accurate copy of what
23 they have, then go look at what they have.

24 MR. BERNICK: I'm sorry, that is not -

25 THE COURT: Mr. Bernick, that's my ruling. Go look

1 at what they have in the possession of the law firms or else
2 accept a certification. I don't have the -

3 MR. BERNICK: There's no certification, Your Honor.
4 They haven't given us that.

5 THE COURT: Ms. Ramsey, can they make a
6 certification that this is a true copy of what they have, and
7 that they cannot get a copy of the original?

8 MS. RAMSEY: Your Honor, what the firms, and I'm not
9 aware of all the 37 firms, but with the firms that I
10 represent have said is, We are prepared to provide a
11 certification that says exactly what I have related to the
12 Court, depending upon the circumstances. If, you know, let
13 us know if that certification is acceptable. If it's not
14 then we're prepared to comply with the form of the order and
15 make originals available to them, and we have not heard back
16 in response to that correspondence.

17 MR. BERNICK: Your Honor, that may be Ms. Ramsey's
18 situation. We have heard from 37 different law firms that
19 say they are not prepared to give us the certification that
20 Your Honor has just said you believe that they are prepared.
21 That is why they are making the originals available at their
22 offices in 37 different locations.

23 THE COURT: Then file a motion for sanctions, Mr.
24 Bernick, file a motion.

25 MR. BERNICK: Yes, we will file a motion for